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HOUSE BILL 891

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Thomas C. Taylor

AN ACT

RELATING TO TAXATION; PROVIDING FOR LOCAL OPTION COMPENSATING TAXES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-1-3 NMSA 1978 (being Laws 1965, Chapter 248, Section 3, as amended by Laws 2001, Chapter 16, Section 2 and also by Laws 2001, Chapter 56, Section 2) is amended to read:

"7-1-3. DEFINITIONS. -- Unless the context clearly indicates a different meaning, the definitions of words and phrases as they are stated in this section are to be used, and whenever in the Tax Administration Act these words and phrases appear, the singular includes the plural and the plural includes the singular:

A. "automated clearinghouse transaction" means an

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1 electronic credit or debit transmitted through an automated
2 clearinghouse payable to the state treasurer and deposited with
3 the fiscal agent of New Mexico;

4 B. "department" means the taxation and revenue
5 department, the secretary or any employee of the department
6 exercising authority lawfully delegated to that employee by the
7 secretary;

8 C. "electronic payment" means a payment made by
9 automated clearinghouse deposit, any funds wire transfer system
10 or a credit card, debit card or electronic cash transaction
11 through the internet;

12 D. "employee of the department" means any employee
13 of the department, including the secretary, or any person
14 acting as agent or authorized to represent or perform services
15 for the department in any capacity with respect to any law made
16 subject to administration and enforcement under the provisions
17 of the Tax Administration Act;

18 E. "financial institution" means any state or
19 federally chartered, federally insured depository institution;

20 F. "Internal Revenue Code" means the Internal
21 Revenue Code of 1986, as amended;

22 G. "levy" means the lawful power, hereby invested
23 in the secretary, to take into possession or to require the
24 present or future surrender to the secretary or the secretary's
25 delegate of any property or rights to property belonging to a

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1 delinquent taxpayer;

2 H. "local option compensating tax" means a tax
3 authorized to be imposed by a county or municipality upon the
4 taxpayer's use of property, as the term "use" is defined in the
5 Gross Receipts and Compensating Tax Act, and required to be
6 collected by the department at the same time and in the same
7 manner as the compensating tax; "local option compensating tax"
8 includes the compensating taxes imposed pursuant to the
9 Municipal Local Option Gross Receipts Taxes Act, Supplemental
10 Municipal Gross Receipts Tax Act, County Local Option Gross
11 Receipts Taxes Act, Local Hospital Gross Receipts Tax Act,
12 County Correctional Facility Gross Receipts Tax Act and such
13 other acts as may be enacted authorizing counties or
14 municipalities to impose taxes on use of property, which taxes
15 are to be collected by the department in the same time and in
16 the same manner as it collects the compensating tax;

17 ~~[H.]~~ I. "local option gross receipts tax" means a
18 tax authorized to be imposed by a county or municipality upon
19 the taxpayer's gross receipts, as that term is defined in the
20 Gross Receipts and Compensating Tax Act, and required to be
21 collected by the department at the same time and in the same
22 manner as the gross receipts tax; "local option gross receipts
23 tax" includes the taxes imposed pursuant to the Municipal Local
24 Option Gross Receipts Taxes Act, Supplemental Municipal Gross
25 Receipts Tax Act, County Local Option Gross Receipts Taxes Act,

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1 Local Hospital Gross Receipts Tax Act, County Correctional
2 Facility Gross Receipts Tax Act and such other acts as may be
3 enacted authorizing counties or municipalities to impose taxes
4 on gross receipts, which taxes are to be collected by the
5 department in the same time and in the same manner as it
6 collects the gross receipts tax;

7 ~~[I.]~~ J. "managed audit" means a review and analysis
8 conducted by a taxpayer under an agreement with the department
9 to determine the taxpayer's compliance with the Gross Receipts
10 and Compensating Tax Act and local option gross receipts and
11 compensating taxes and the presentation of the results to the
12 department for assessment of tax found to be due;

13 ~~[J.]~~ K. "net receipts" means the total amount of
14 money paid by taxpayers to the department in a month pursuant
15 to a tax or tax act less any refunds disbursed in that month
16 with respect to that tax or tax act;

17 ~~[K.]~~ L. "overpayment" means an amount paid,
18 pursuant to any law subject to administration and enforcement
19 under the provisions of the Tax Administration Act, by a person
20 to the department or withheld from the person in excess of tax
21 due from the person to the state at the time of the payment or
22 at the time the amount withheld is credited against tax due;

23 ~~[L.]~~ M. "paid" includes the term "paid over";

24 ~~[M.]~~ N. "pay" includes the term "pay over";

25 ~~[N.]~~ O. "payment" includes the term "payment over";

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1 ~~[P.]~~ P. "person" means any individual, estate,
2 trust, receiver, cooperative association, club, corporation,
3 company, firm, partnership, limited liability company, limited
4 liability partnership, joint venture, syndicate, other
5 association or gas, water or electric utility owned or operated
6 by a county or municipality; "person" also means, to the extent
7 permitted by law, a federal, state or other governmental unit
8 or subdivision, or an agency, department or instrumentality
9 thereof; and "person", as used in Sections 7-1-72 through
10 7-1-74 NMSA 1978, also includes an officer or employee of a
11 corporation, a member or employee of a partnership or any
12 individual who, as such, is under a duty to perform any act in
13 respect of which a violation occurs;

14 ~~[P.]~~ Q. "property" means property or rights to
15 property;

16 ~~[Q.]~~ R. "property or rights to property" means any
17 tangible property, real or personal, or any intangible property
18 of a taxpayer;

19 ~~[R.]~~ S. "secretary" means the secretary of taxation
20 and revenue and, except for purposes of Subsection B of Section
21 7-1-4 NMSA 1978 and Subsection E of Section 7-1-24 NMSA 1978,
22 also includes the deputy secretary or a division director or
23 deputy division director delegated by the secretary;

24 ~~[S.]~~ T. "secretary or the secretary's delegate"
25 means the secretary or any employee of the department

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1 exercising authority lawfully delegated to that employee by the
2 secretary;

3 ~~[F.]~~ U. "security" means money, property or rights
4 to property or a surety bond;

5 ~~[U.]~~ V. "state" means any state of the United
6 States, the District of Columbia, the commonwealth of Puerto
7 Rico and any territory or possession of the United States;

8 ~~[V.]~~ W. "tax" means the total amount of each tax
9 imposed and required to be paid, withheld and paid or collected
10 and paid under provision of any law made subject to
11 administration and enforcement according to the provisions of
12 the Tax Administration Act and, unless the context otherwise
13 requires, includes the amount of any interest or civil penalty
14 relating thereto; "tax" also means any amount of any abatement
15 of tax made or any credit, rebate or refund paid or credited by
16 the department under any law subject to administration and
17 enforcement under the provisions of the Tax Administration Act
18 to any person contrary to law and includes, unless the context
19 requires otherwise, the amount of any interest or civil penalty
20 relating thereto;

21 ~~[W.]~~ X. "taxpayer" means a person liable for
22 payment of any tax, a person responsible for withholding and
23 payment or for collection and payment of any tax or a person to
24 whom an assessment has been made, if the assessment remains
25 unabated or the amount thereof has not been paid; and

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1 ~~[X-]~~ Y. "tax return preparer" means a person who
2 prepares for others for compensation or who employs one or more
3 persons to prepare for others for compensation any return of
4 income tax, a substantial portion of any return of income tax,
5 any claim for refund with respect to income tax or a
6 substantial portion of any claim for refund with respect to
7 income tax; provided that a person shall not be a "tax return
8 preparer" merely because such person:

9 (1) furnishes typing, reproducing or other
10 mechanical assistance;

11 (2) is an employee who prepares an income tax
12 return or claim for refund with respect to an income tax return
13 of the employer, or of an officer or employee of the employer,
14 by whom the person is regularly and continuously employed; or

15 (3) prepares as a trustee or other fiduciary
16 an income tax return or claim for refund with respect to income
17 tax for any person."

18 Section 2. Section 7-1-6.12 NMSA 1978 (being Laws 1983,
19 Chapter 211, Section 17, as amended) is amended to read:

20 "7-1-6.12. ~~TRANSFER--REVENUES FROM MUNICIPAL LOCAL OPTION~~
21 ~~GROSS RECEIPTS TAXES--REVENUE FROM LOCAL OPTION COMPENSATING~~
22 TAXES. --

23 A. A transfer pursuant to Section 7-1-6.1 NMSA 1978
24 shall be made to each municipality for which the department is
25 collecting a local option gross receipts tax imposed by that

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1 municipality in an amount, subject to any increase or decrease
2 made pursuant to Section 7-1-6.15 NMSA 1978, equal to the net
3 receipts attributable to the local option gross receipts tax
4 imposed by that municipality, less any deduction for
5 administrative cost determined and made by the department
6 pursuant to the provisions of the act authorizing imposition by
7 that municipality of the local option gross receipts tax and
8 any additional administrative fee withheld pursuant to
9 Subsection C of Section [~~1 of this 1997 act~~] 7-1-6.41 NMSA
10 1978.

11 B. A transfer pursuant to Section 7-1-6.1 NMSA 1978
12 shall be made to each municipality for which the department is
13 collecting a local option compensating tax imposed by that
14 municipality in an amount, subject to any increase or decrease
15 pursuant to Section 7-1-6.15 NMSA 1978, equal to the net
16 receipts attributable to the local option compensating tax
17 imposed by that municipality."

18 Section 3. Section 7-1-6.13 NMSA 1978 (being Laws 1983,
19 Chapter 211, Section 18, as amended) is amended to read:

20 "7-1-6.13. ~~TRANSFER--REVENUES FROM COUNTY LOCAL OPTION~~
21 ~~GROSS RECEIPTS TAXES--~~ REVENUES FROM LOCAL OPTION COMPENSATING
22 TAXES. --

23 A. A transfer pursuant to Section 7-1-6.1 NMSA 1978
24 shall be made to each county for which the department is
25 collecting a local option gross receipts tax imposed by that

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1 county in an amount, subject to any increase or decrease made
2 pursuant to Section 7-1-6.15 NMSA 1978, equal to the net
3 receipts attributable to the local option gross receipts tax
4 imposed by that county, less any deduction for administrative
5 cost determined and made by the department pursuant to the
6 provisions of the act authorizing imposition by that county of
7 the local option gross receipts tax and any additional
8 administrative fee withheld pursuant to Subsection C of Section
9 ~~[1 of this 1997 act]~~ 7-1-6.41 NMSA 1978.

10 B. A transfer pursuant to Section 7-1-6.1 NMSA 1978
11 shall be made to each county for which the department is
12 collecting a local option compensating tax imposed by that
13 county in an amount, subject to any increase or decrease made
14 pursuant to Section 7-1-6.15 NMSA 1978, equal to the net
15 receipts attributable to the local option compensating tax
16 imposed by that county."

17 Section 4. Section 7-1-6.15 NMSA 1978 (being Laws 1983,
18 Chapter 211, Section 20, as amended) is amended to read:

19 "7-1-6.15. ADJUSTMENTS OF DISTRIBUTIONS OR TRANSFERS TO
20 MUNICIPALITIES OR COUNTIES. --

21 A. The provisions of this section apply to:

22 (1) any distribution to a municipality of
23 gross receipts taxes pursuant to Section 7-1-6.4 NMSA 1978 or
24 of interstate telecommunications gross receipts tax pursuant to
25 Section 7-1-6.36 NMSA 1978;

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1 (2) any transfer to a municipality with
2 respect to any local option gross receipts tax or local option
3 compensating tax imposed by that municipality;

4 (3) any transfer to a county with respect to
5 any local option gross receipts tax or local option
6 compensating tax imposed by that county;

7 (4) any distribution to a county pursuant to
8 Section 7-1-6.16 NMSA 1978;

9 (5) any distribution to a municipality or a
10 county of gasoline taxes pursuant to Section 7-1-6.9 NMSA 1978;

11 (6) any transfer to a county with respect to
12 any tax imposed in accordance with the Local Liquor Excise Tax
13 Act;

14 (7) any distribution to a municipality or a
15 county of cigarette taxes pursuant to Sections 7-1-6.11,
16 7-12-15 and 7-12-16 NMSA 1978;

17 (8) any distribution to a county from the
18 county government road fund pursuant to Section 7-1-6.26 NMSA
19 1978;

20 (9) any distribution to a municipality of
21 gasoline taxes pursuant to Section 7-1-6.27 NMSA 1978; and

22 (10) any distribution to a municipality,
23 county, school district or special district of oil and gas ad
24 valorem production tax reduced as a result of a refund
25 requested in December 1998 with respect to production of carbon

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1 di oxide.

2 B. If the secretary determines that any prior
3 distribution or transfer to a political subdivision was
4 erroneous, the secretary shall increase or decrease the next
5 distribution or transfer amount for that political subdivision
6 after the determination, except as provided in Subsection C, D
7 or E of this section, by the amount necessary to correct the
8 error. Subject to the provisions of Subsection E of this
9 section, the secretary shall notify the political subdivision
10 of the amount of each increase or decrease.

11 C. No decrease shall be made to current or future
12 distributions or transfers to a political subdivision for any
13 excess distribution or transfer made to that political
14 subdivision more than one year prior to the calendar year in
15 which the determination of the secretary was made.

16 D. The secretary, in lieu of recovery from the next
17 distribution or transfer amount, may recover an excess
18 distribution or transfer of one hundred dollars (\$100) or more
19 to the political subdivision in installments from current and
20 future distributions or transfers to that political subdivision
21 pursuant to an agreement with the officials of the political
22 subdivision whenever the amount of the distribution or transfer
23 decrease for the political subdivision exceeds ten percent of
24 the average distribution or transfer amount for that political
25 subdivision for the twelve months preceding the month in which

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1 the secretary's determination is made; provided that for the
2 purposes of this subsection, the "average distribution or
3 transfer amount" shall be the arithmetic mean of the
4 distribution or transfer amounts within the twelve months
5 immediately preceding the month in which the determination is
6 made.

7 E. Except for the provisions of this section, if
8 the amount by which a distribution or transfer would be
9 adjusted pursuant to Subsection B of this section is one
10 hundred dollars (\$100) or less, no adjustment or notice need be
11 made.

12 F. The secretary is authorized to decrease a
13 distribution to a municipality or county upon being directed
14 to do so by the secretary of finance and administration
15 pursuant to the State Aid Intercept Act or to redirect a
16 distribution to the New Mexico finance authority pursuant to
17 an ordinance or a resolution passed by the county or
18 municipality and a written agreement of the municipality or
19 county and the New Mexico finance authority. Upon direction
20 to decrease a distribution or notice to redirect a
21 distribution to a municipality or county, the secretary shall
22 decrease or redirect the next designated distribution, and
23 succeeding distributions as necessary, by the amount of the
24 state distributions intercept authorized by the secretary of
25 finance and administration pursuant to the State Aid

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1 Intercept Act or by the amount of the state distribution
2 intercept authorized pursuant to an ordinance or a resolution
3 passed by the county or municipality and a written agreement
4 with the New Mexico finance authority. The secretary shall
5 transfer the state distributions intercept amount to the
6 municipal or county treasurer or other person designated by
7 the secretary of finance and administration or to the New
8 Mexico finance authority pursuant to written agreement to pay
9 the debt service to avoid default on qualified local revenue
10 bonds or meet other local revenue bond, loan or other debt
11 obligations of the municipality or county to the New Mexico
12 finance authority. "

13 Section 5. A new section of the Tax Administration Act
14 is enacted to read:

15 "[NEW MATERIAL] LOCATION OF USE. --

16 A. For local option compensating tax purposes,
17 use of property occurs in the jurisdiction in which:

18 (1) the buyer's place of business is located
19 if the buyer is engaging in business in New Mexico and uses
20 the property in furtherance of that business; and

21 (2) the buyer's residence is located if the
22 buyer is not engaging in business in New Mexico or does not
23 use the property in furtherance of business.

24 B. The department shall promulgate regulations to
25 determine where use will be attributed when the buyer has

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1 more than one business location or residence in New Mexico. "

2 Section 6. Section 7-9-7.1 NMSA 1978 (being Laws 1993,
3 Chapter 45, Section 1, as amended) is amended to read:

4 "7-9-7.1. DEPARTMENT BARRED FROM TAKING COLLECTION
5 ACTIONS WITH RESPECT TO CERTAIN COMPENSATING TAX
6 LIABILITIES. --

7 A. The department shall take no action to enforce
8 collection of compensating tax or local option compensating
9 tax due on purchases made by an individual if:

10 (1) the property is used only for
11 nonbusiness purposes;

12 (2) the property is not a manufactured home;
13 and

14 (3) the individual is not an agent for
15 collection of compensating tax pursuant to Section 7-9-10
16 NMSA 1978.

17 B. The prohibition in Subsection A of this
18 section does not prevent the department from enforcing
19 collection of compensating tax and local option compensating
20 tax on purchases from persons who are not individuals, who
21 are agents for collection pursuant to Section 7-9-10 NMSA
22 1978 or who use the property in the course of engaging in
23 business in New Mexico or from enforcing collection of
24 compensating tax and local option compensating tax due on the
25 purchase of ~~manufactured~~ homes. "

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1 Section 7. A new section of the Gross Receipts and
2 Compensating Tax Act is enacted to read:

3 "[NEW MATERIAL] CREDIT--COMPENSATING TAX--MUNICIPAL
4 COMPENSATING TAX PAID.--A credit shall be allowed for each
5 reporting period against the compensating tax for an amount
6 of the municipal compensating tax equal to:

7 A. one-half percent of the value of property for
8 which the taxpayer is liable for that reporting period if the
9 rate of the municipal compensating tax in effect at the time
10 of the use was one-half percent; or

11 B. one-fourth percent of the value of property
12 for which the taxpayer is liable for that reporting period if
13 the rate of the municipal compensating tax in effect at the
14 time of the use was one-fourth percent. "

15 Section 8. Section 7-19-12 NMSA 1978 (being Laws 1979,
16 Chapter 397, Section 3, as amended) is amended to read:

17 "7-19-12. AUTHORIZATION TO IMPOSE SUPPLEMENTAL
18 MUNICIPAL GROSS RECEIPTS TAX AND SUPPLEMENTAL MUNICIPAL
19 COMPENSATING TAX--AUTHORIZATION FOR ISSUANCE OF SUPPLEMENTAL
20 MUNICIPAL GROSS RECEIPTS BONDS--ELECTION REQUIRED.--

21 A. The majority of the members elected to the
22 governing body of a municipality may enact an ordinance
23 imposing an excise tax on any person engaging in business in
24 the municipality for the privilege of engaging in business in
25 the municipality. This tax is to be referred to as the

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1 "supplemental municipal gross receipts tax". The rate of the
2 tax shall not exceed one percent of the gross receipts of the
3 person engaging in business and shall be imposed in one-
4 fourth percent increments if less than one percent.

5 B. An ordinance imposing a tax authorized by
6 Subsection A of this section shall also impose a tax for the
7 privilege of using property in the municipality if the use or
8 service is subject to the compensating tax. This tax shall
9 be referred to as the "supplemental municipal compensating
10 tax". The rate of the tax imposed under this subsection
11 shall be the same as the rate of tax imposed under Subsection
12 A of this section. If, at the time this 2003 act becomes
13 effective, a municipality has in effect any amount of
14 supplemental municipal gross receipts tax, a supplemental
15 municipal compensating tax is hereby imposed at the same
16 rate, effective on the effective date of this 2003 act.

17 [~~B.~~] C. The governing body of a municipality
18 enacting an ordinance imposing the [~~tax~~] taxes authorized in
19 [~~Subsection A~~] Subsections A and B of this section shall
20 submit the question of imposing [~~such tax~~] the taxes and the
21 question of the issuance of supplemental municipal gross
22 receipts bonds in an amount not to exceed nine million
23 dollars (\$9,000,000), for which the revenue from the
24 supplemental municipal gross receipts tax and supplemental
25 municipal compensating tax is dedicated, to the qualified

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1 electors of the municipality at a regular or special
2 election.

3 ~~[C.]~~ D. The questions referred to in Subsection
4 ~~[B]~~ C of this section shall be submitted to a vote of the
5 qualified electors of the municipality as two separate ballot
6 questions, which shall be substantially in the following
7 form:

8 (1) "Shall the municipality be authorized to
9 issue supplemental municipal gross receipts bonds in an
10 amount of not exceeding _____ dollars for the
11 purpose of constructing and equipping and otherwise acquiring
12 a municipal water supply system?

13 For _____ Against _____"; and

14 (2) "Shall the municipality impose an excise
15 tax for the privilege of engaging in business in the
16 municipality, which shall be known as the "supplemental
17 municipal gross receipts tax" and an excise tax on the use of
18 property in the municipality, which shall be known as the
19 "supplemental municipal compensating tax", both of which
20 shall be imposed at a rate of _____ percent [~~of the~~
21 ~~gross receipts of the person engaging in business~~], the
22 proceeds of which are dedicated to the payment of
23 supplemental municipal gross receipts bonds?

24 For _____ Against _____".

25 ~~[D.]~~ E. Only those voters who are registered

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1 electors who reside within the municipality shall be
2 permitted to vote on these two questions. The procedures for
3 conducting the election shall be substantially the same as
4 the applicable provisions in Sections 3-30-1, 3-30-6 and
5 3-30-7 NMSA 1978 relating to municipal debt.

6 ~~[E.]~~ F. If at an election called pursuant to this
7 section a majority of the voters voting on each of the two
8 questions ~~[vote]~~ votes in the affirmative on each ~~[such]~~
9 question, ~~[then]~~ the ordinance imposing the supplemental
10 municipal gross receipts tax and supplemental municipal
11 compensating tax shall be approved. If at such election a
12 majority of the voters voting on such questions ~~[fail]~~ fails
13 to approve any of the questions, ~~[then]~~ the ordinance
14 imposing the ~~[tax]~~ taxes shall be disapproved and the
15 questions required to be submitted by Subsection ~~[B]~~ C of
16 this section shall not be submitted to the voters for a
17 period of one year from the date of the election.

18 ~~[F.]~~ G. Any ordinance enacted under the
19 provisions of this section shall include an effective date of
20 either July 1 or January 1, whichever date occurs first after
21 the expiration of at least ~~[five]~~ three months from the date
22 of the election. A certified copy of any ordinance imposing
23 a supplemental municipal gross receipts tax and supplemental
24 municipal compensating tax shall be mailed to the ~~[division]~~
25 department within five days after the ordinance is adopted by

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1 the approval by the electorate. Any ordinance repealing the
2 imposition of a tax under the provisions of the Supplemental
3 Municipal Gross Receipts Tax Act shall become effective on
4 either July 1 or January 1, after the expiration of at least
5 [~~five~~] three months from the date the ordinance is repealed
6 by the governing body.

7 [~~G.~~] H. Nothing in this section is intended to or
8 does alter the effectiveness or validity of any actions taken
9 in accordance with Subsection G of Section 80 of Chapter 20
10 of Laws 1986. "

11 Section 9. Section 7-19-13 NMSA 1978 (being Laws 1979,
12 Chapter 397, Section 4) is amended to read:

13 "7-19-13. ORDINANCE [~~MUST~~] SHALL CONFORM TO CERTAIN
14 PROVISIONS OF THE GROSS RECEIPTS AND COMPENSATING TAX ACT AND
15 REQUIREMENTS OF THE [~~DIVISION~~] DEPARTMENT. --

16 A. Any ordinance imposing a supplemental
17 municipal gross receipts tax and supplemental municipal
18 compensating tax shall adopt by reference the same
19 definitions and the same provisions relating to exemptions
20 and deductions as are contained in the Gross Receipts and
21 Compensating Tax Act then in effect and as it may be amended
22 from time to time.

23 B. The governing body of any municipality
24 imposing or increasing the supplemental municipal gross
25 receipts tax [~~must~~] and supplemental municipal compensating

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1 tax shall adopt the language of the model ordinance furnished
2 to the municipality by the [~~division~~] department for the
3 portion of the ordinance relating to the [~~tax~~] taxes."

4 Section 10. Section 7-19-15 NMSA 1978 (being Laws 1979,
5 Chapter 397, Section 6, as amended) is amended to read:

6 "7-19-15. COLLECTION BY DEPARTMENT-- TRANSFER OF
7 PROCEEDS-- DEDUCTIONS. --

8 A. The department shall collect the supplemental
9 municipal gross receipts tax in the same manner and at the
10 same time it collects the state gross receipts tax. The
11 department shall collect the supplemental municipal
12 compensating tax in the same manner and at the same time it
13 collects the compensating tax.

14 B. The department shall withhold an
15 administrative fee pursuant to Section [~~1 of this 1997 act~~]
16 7-1-6.41 NMSA 1978. The department shall transfer to each
17 municipality for which it is collecting a supplemental
18 municipal gross receipts tax the amount of the tax collected
19 less the administrative fee withheld and less any
20 disbursements for tax credits, refunds and the payment of
21 interest applicable to the supplemental municipal gross
22 receipts tax. The department shall transfer to each
23 municipality for which it is collecting a supplemental
24 municipal compensating tax the amount of the tax collected
25 less any disbursements for tax credits, refunds and the

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1 payment of interest applicable to the supplemental municipal
2 compensating tax. Transfer of the [~~tax~~] taxes to a
3 municipality shall be made within the month following the
4 month in which the [~~tax-is~~] taxes are collected. "

5 Section 11. Section 7-19-16 NMSA 1978 (being Laws 1979,
6 Chapter 397, Section 7) is amended to read:

7 "7-19-16. INTERPRETATION OF ACT--ADMINISTRATION AND
8 ENFORCEMENT OF [~~TAX~~] TAXES. --

9 A. The [~~division~~] department shall interpret the
10 provisions of the Supplemental Municipal Gross Receipts Tax
11 Act.

12 B. The [~~division~~] department shall administer and
13 enforce the collection of the supplemental municipal gross
14 receipts tax and supplemental municipal compensating tax, and
15 the Tax Administration Act applies to the administration and
16 enforcement of the [~~tax~~] taxes. "

17 Section 12. Section 7-19-18 NMSA 1978 (being Laws 1979,
18 Chapter 397, Section 9, as amended) is amended to read:

19 "7-19-18. SUPPLEMENTAL MUNICIPAL GROSS RECEIPTS TAX AND
20 SUPPLEMENTAL MUNICIPAL COMPENSATING TAX--USE OF PROCEEDS--
21 RESTRICTION. --

22 A. The proceeds from the supplemental municipal
23 gross receipts tax and supplemental municipal compensating
24 tax shall be deposited in a special improvement account of
25 the municipality and shall be used only for:

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1 (1) the payment of the principal of, interest
2 on, any prior redemption premiums due in connection with and
3 other expenses related to the supplemental municipal gross
4 receipts bonds issued pursuant to the Supplemental Municipal
5 Gross Receipts Tax Act;

6 (2) the funding of any reserves and other
7 accounts in connection with such bonds;

8 (3) refunding bonds; and

9 (4) to the extent not needed for those
10 purposes, the improvement of the municipality's water system.

11 B. When any issue of supplemental municipal gross
12 receipts bonds is fully paid, the supplemental municipal gross
13 receipts tax and supplemental municipal compensating tax shall
14 cease to be imposed for that issue, but may continue to be
15 imposed for bonds enacted and approved pursuant to Section
16 7-19-12 NMSA 1978 and thereafter issued, or for refunding bonds
17 issued pursuant to Section ~~[4 of this 1997 act]~~ 7-19-17.1 NMSA
18 1978. Any money remaining in a special improvement account
19 after the obligations for supplemental municipal gross receipts
20 bonds and refunding bonds are fully paid may be transferred to
21 any other fund of the municipality."

22 Section 13. A new section of the Municipal Local Option
23 Gross Receipts Taxes Act is enacted to read:

24 "[NEW MATERIAL] MATCHING LOCAL OPTION COMPENSATING TAX. --

25 A. An ordinance imposing, increasing or repealing a

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1 local option gross receipts tax authorized by the Municipal
2 Local Option Gross Receipts Taxes Act shall also impose,
3 increase or repeal a tax for the privilege of using property in
4 the municipality if the use of the property is subject to the
5 compensating tax. The rate of the municipal tax on use
6 imposed, increased or repealed shall be the same as the rate of
7 the local option gross receipts tax imposed, increased or
8 repealed.

9 B. If, at the time this 2003 act becomes effective,
10 a municipality has in effect any local option gross receipts
11 tax authorized by the Municipal Local Option Gross Receipts
12 Taxes Act, a municipal tax on use is hereby imposed at the same
13 rate, effective on the effective date of this 2003 act.

14 C. The municipal tax on use authorized or imposed
15 by this section may be referred to generally as "municipal
16 local option compensating taxes", and each such tax may be
17 referred to individually by reference to the local option gross
18 receipts tax with which it is associated."

19 Section 14. Section 7-19D-7 NMSA 1978 (being Laws 1993,
20 Chapter 346, Section 7, as amended) is amended to read:

21 "7-19D-7. COLLECTION BY DEPARTMENT-- TRANSFER OF
22 PROCEEDS-- DEDUCTIONS. --

23 A. The department shall collect each local option
24 gross receipts tax imposed pursuant to the provisions of the
25 Municipal Local Option Gross Receipts Taxes Act in the same

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1 manner and at the same time it collects the state gross
2 receipts tax. The department shall collect each municipal
3 local option compensating tax imposed pursuant to the
4 provisions of the Municipal Local Option Gross Receipts Taxes
5 Act in the same manner and at the same time it collects the
6 compensating tax.

7 B. Except as provided in Subsection C of this
8 section, the department shall withhold an administrative fee
9 pursuant to Section [~~1 of this 1997 act~~] 7-1-6.41 NMSA 1978.
10 The department shall transfer to each municipality for which it
11 is collecting a local option gross receipts tax pursuant to the
12 provisions of the Municipal Local Option Gross Receipts Taxes
13 Act the amount of each tax collected for that municipality,
14 less the administrative fee withheld and less any disbursements
15 for tax credits, refunds and the payment of interest applicable
16 to the tax. The department shall transfer to each municipality
17 for which it is collecting a municipal local option
18 compensating tax pursuant to the provisions of the Municipal
19 Local Option Gross Receipts Taxes Act the amount of each tax
20 collected for that municipality, less any disbursements for tax
21 credits, refunds and the payment of interest applicable to the
22 tax. The transfer to the municipality shall be made within the
23 month following the month in which the [~~tax is~~] taxes are
24 collected.

25 C. With respect to the municipal gross receipts tax

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1 imposed by a municipality pursuant to Section 7-19D-9 NMSA
2 1978, the department shall withhold the administrative fee
3 pursuant to Section [~~1 of this 1997 act~~] 7-1-6.41 NMSA 1978
4 only on that portion of the municipal gross receipts tax
5 arising from a municipal gross receipts tax rate in excess of
6 one-half of one percent. "

7 Section 15. A new section of the Local Hospital Gross
8 Receipts Tax Act is enacted to read:

9 "[NEW MATERIAL] MATCHING LOCAL HOSPITAL COMPENSATING
10 TAX.--Any ordinance imposing, increasing or repealing a local
11 hospital gross receipts tax authorized by the Local Hospital
12 Gross Receipts Tax Act shall also impose, increase or repeal a
13 tax for the privilege of using property in the county if the
14 use of the property is subject to the compensating tax. This
15 tax may be referred to as the "local hospital compensating
16 tax". The rate of the local hospital compensating tax imposed,
17 increased or repealed shall be the same as the rate of the
18 local hospital gross receipts tax imposed, increased or
19 repealed. If, at the time this 2003 act becomes effective, a
20 county has in effect a local hospital gross receipts tax, a
21 local hospital compensating tax is hereby imposed at the same
22 rate, effective on the effective date of this 2003 act."

23 Section 16. Section 7-20C-6 NMSchA 1978 (being Laws 1991,
24 Chapter 176, Section 6, as amended) is amended to read:

25 "7-20C-6. COLLECTION BY DEPARTMENT--TRANSFER OF

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1 PROCEEDS-- DEDUCTIONS. --

2 A. The department shall collect the local hospital
3 gross receipts tax in the same manner and at the same time it
4 collects the state gross receipts tax. The department shall
5 collect the local hospital compensating tax in the same manner
6 and at the same time it collects the compensating tax.

7 B. The department shall withhold an administrative
8 fee pursuant to Section [~~1 of this 1997 act~~] 7-1-6.41 NMSA
9 1978. The department shall transfer to each county for which
10 it is collecting [~~such~~] the local hospital gross receipts tax
11 and the local hospital compensating tax the amount of the tax
12 collected less the administrative fee withheld and less any
13 disbursements for tax credits, refunds and the payment of
14 interest applicable to the [~~tax~~] taxes. The transfer [of the
15 tax] to a county shall be made within the month following the
16 month in which the [~~tax is~~] taxes are collected."

17 Section 17. A new section of the County Local Option
18 Gross Receipts Taxes Act is enacted to read:

19 "[NEW MATERIAL] MATCHING LOCAL OPTION COMPENSATING TAX. --

20 A. An ordinance imposing, increasing or repealing a
21 local option gross receipts tax authorized by the County Local
22 Option Gross Receipts Taxes Act to be imposed on a county-wide
23 basis shall also impose, increase or repeal a tax for the
24 privilege of using property in the county if the use of the
25 property is subject to the compensating tax. The rate of

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1 county tax on use imposed, increased or repealed shall be the
2 same as the rate of the local option gross receipts tax
3 imposed, increased or repealed.

4 B. An ordinance imposing, increasing or repealing a
5 local option gross receipts tax authorized by the County Local
6 Option Gross Receipts Taxes Act to be imposed only in the
7 county area shall also impose, increase or repeal a tax for the
8 privilege of using property in the county area if the use of
9 the property is subject to the compensating tax. The rate of
10 county area tax on use imposed, increased or repealed shall be
11 the same as the rate of the local option gross receipts tax
12 imposed, increased or repealed.

13 C. If, at the time this 2003 act becomes effective,
14 a county has in effect a local option gross receipts tax
15 authorized to be imposed on a county-wide basis, a county tax
16 on use of property in the county is hereby imposed at the same
17 rate, effective on the effective date of this 2003 act. If, at
18 the time this 2003 act becomes effective, a county has in
19 effect a local option gross receipts tax authorized to be
20 imposed only in the county area, a county area tax on use of
21 property in the county area is hereby imposed at the same rate,
22 effective on the effective date of this 2003 act.

23 D. The county taxes on use authorized or imposed by
24 this section may be referred to generally as "county local
25 option compensating taxes", and each tax may be referred to

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1 individually by reference to the local option gross receipts
2 tax with which it is associated. "

3 Section 18. Section 7-20E-7 NMSA 1978 (being Laws 1993,
4 Chapter 354, Section 7, as amended) is amended to read:

5 "7-20E-7. COLLECTION BY DEPARTMENT-- TRANSFER OF
6 PROCEEDS-- DEDUCTIONS. --

7 A. The department shall collect each county local
8 option gross receipts tax imposed pursuant to the provisions of
9 the County Local Option Gross Receipts Taxes Act in the same
10 manner and at the same time it collects the state gross
11 receipts tax. The department shall collect each county local
12 option compensating tax imposed pursuant to the provisions of
13 the County Local Option Gross Receipts Taxes Act in the same
14 manner and at the same time it collects the compensating tax.

15 B. The department shall withhold an administrative
16 fee pursuant to Section [~~1 of this 1997 act~~] 7-1-6.41 NMSA
17 1978. The department shall transfer to each county for which
18 it is collecting a county local option gross receipts tax
19 pursuant to the provisions of the County Local Option Gross
20 Receipts Taxes Act the amount of each county local option gross
21 receipts tax collected for that county, less the administrative
22 fee withheld and less any disbursements for tax credits,
23 refunds and the payment of interest applicable to the tax. The
24 department shall transfer to each county for which it is
25 collecting a county local option compensating tax pursuant to

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1 the provisions of the County Local Option Gross Receipts Taxes
2 Act the amount of each local option compensating tax collected
3 for that county, less any disbursements for tax credits,
4 refunds and the payment of interest applicable to the tax. The
5 transfer to the county shall be made within the month following
6 the month in which the [~~tax-is~~] taxes are collected. "

7 Section 19. Section 7-20F-3 NMSA 1978 (being Laws 1993,
8 Chapter 303, Section 3, as amended) is amended to read:

9 "7-20F-3. COUNTY CORRECTIONAL FACILITY GROSS RECEIPTS
10 TAX--COUNTY CORRECTIONAL FACILITY COMPENSATING TAX--AUTHORITY
11 TO IMPOSE--RATE--ORDINANCE REQUIREMENTS--REFERENDUM --

12 A. The majority of the members elected to the
13 county board may enact an ordinance imposing on a county-wide
14 basis an excise tax not to exceed a rate of one-eighth of one
15 percent of the gross receipts of any person engaging in
16 business in the county, including all municipalities within the
17 county; provided that the voters of:

18 (1) a class A county described in Paragraph
19 (1) of Subsection A of Section 7-20F-2 NMSA 1978 or a class B
20 county described in Paragraph (2) of Subsection A of Section
21 7-20F-2 NMSA 1978 have approved the issuance of general
22 obligation bonds of the county sufficient to pay at least
23 one-half of the costs of the construction and equipping of the
24 new county judicial-correctional facility for which the county
25 correctional facility gross receipts tax revenue is dedicated;

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1 or

2 (2) a class B county described in Paragraph
3 (3) of Subsection A of Section 7-20F-2 NMSA 1978 have approved
4 the issuance of bonds by the New Mexico finance authority
5 sufficient to pay at least one-half of the costs of designing,
6 constructing, equipping, furnishing and otherwise improving the
7 new county correctional facility for which the county
8 correctional facility gross receipts tax revenue is dedicated.

9 B. The tax imposed pursuant to Subsection A of this
10 section may be referred to as the "county correctional facility
11 gross receipts tax". The county correctional facility gross
12 receipts tax shall be imposed only once for the period
13 necessary for payment of the principal and interest on revenue
14 bonds issued pursuant to the County Correctional Facility Gross
15 Receipts Tax Act, but the period shall not exceed ten years
16 from the effective date of the ordinance imposing the tax.

17 C. An ordinance imposing a county correctional
18 facility gross receipts tax shall also impose a tax on the use
19 of property in the county if the use of the property is subject
20 to the compensating tax. This tax may be referred to as the
21 "county correctional facility compensating tax". The rate of
22 the county correctional facility compensating tax imposed shall
23 be the same as the rate of the county correctional facility
24 gross receipts tax imposed. If, at the time this 2003 act
25 becomes effective, a county has in effect a county correctional

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1 facility gross receipts tax, a county correctional facility
2 compensating tax is hereby imposed at the same rate, effective
3 on the effective date of this 2003 act.

4 [~~E-~~] D. Any ordinance imposing a county
5 correctional facility gross receipts tax and county
6 correctional facility compensating tax pursuant to this section
7 shall:

8 (1) impose the [~~tax~~] taxes in any number of
9 increments of one-sixteenth of one percent not to exceed an
10 aggregate amount of one-eighth of one percent; provided that
11 the rate of the two taxes is the same;

12 (2) specify that the imposition of the [~~tax~~]
13 taxes will begin on either July 1 or January 1, whichever
14 occurs first after the expiration of at least three months from
15 the date that the department is notified personally or by mail
16 by the county that imposition of the county correctional
17 facility gross receipts tax and county correctional facility
18 compensating tax has been approved by a majority of the
19 registered voters in the county voting on the question; and

20 (3) dedicate the revenue from the county
21 correctional facility gross receipts tax and county
22 correctional facility compensating tax for the purpose of
23 constructing, purchasing, furnishing, equipping,
24 rehabilitating, expanding or improving a judicial-correctional
25 or a county correctional facility or the grounds of a judicial-

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1 correctional or county correctional facility, including [~~but~~
2 ~~not limited to~~] acquiring and improving parking lots,
3 landscaping or any combination of the foregoing or to payment
4 of principal and interest on revenue bonds or refunding bonds
5 issued pursuant to the provisions of the County Correctional
6 Facility Gross Receipts Tax Act.

7 [~~D.~~] E. An ordinance imposing a county correctional
8 facility gross receipts tax and county correctional facility
9 compensating tax pursuant to this section shall not become
10 effective until after an election is held and a simple majority
11 of the qualified electors of the county voting in the election
12 votes in favor of imposing the [~~tax~~] taxes.

13 [~~E.~~] F. The [~~governing body~~] county board shall
14 adopt a resolution calling for an election within seventy-five
15 days of the date the ordinance is adopted on the question of
16 imposing the [~~tax~~] taxes, and:

17 (1) in a class A county described in Paragraph
18 (1) of Subsection A of Section 7-20F-2 NMSA 1978 or a class B
19 county described in Paragraph (2) of Subsection A of Section
20 7-20F-2 NMSA 1978, if a property tax at a rate necessary to
21 comply with the provisions of Subsection A of this section has
22 not been approved by the voters of the county, the question
23 submitted to the voters shall be the question of imposing a
24 county correctional facility gross receipts tax, a county
25 correctional facility compensating tax and a property tax at a

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1 rate necessary for the issuance of general obligation bonds of
2 the county sufficient to comply with the provisions of the
3 County Correctional Facility Gross Receipts Tax Act; or

4 (2) in a class B county described in Paragraph
5 (3) of Subsection A of Section 7-20F-2 NMSA 1978, the question
6 to be submitted to the voters is "Shall a county correctional
7 facility gross receipts tax and a county correctional facility
8 compensating tax be imposed to repay bonds that will be issued
9 by the New Mexico finance authority in an amount sufficient to
10 pay at least one-half of the costs of designing, constructing,
11 equipping, furnishing and otherwise improving the new county
12 correctional facility?".

13 [~~F.~~] G. The question shall be submitted to the
14 voters at any general election or special election called for
15 that purpose by the county board.

16 [~~G.~~] H. The election upon the question shall be
17 called, held, conducted and canvassed in substantially the same
18 manner as may be provided by law for general elections.

19 [~~H.~~] I. If the question of imposing the county
20 correctional facility gross receipts tax and a property tax, if
21 the question includes a property tax, fails, the county board
22 shall not again propose imposition of a county correctional
23 facility gross receipts tax for a period of one year after the
24 election.

25 [~~I.~~] J. Revenue produced by the imposition of a

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1 county correctional facility gross receipts tax and a county
2 correctional facility compensating tax that is in excess of the
3 annual principal and interest due on bonds secured by a pledge
4 of the county correctional facility gross receipts tax and
5 county correctional facility compensating tax may be
6 accumulated in a debt service reserve account until an amount
7 equal to the maximum amount permitted pursuant to the
8 provisions of the United States treasury regulations is
9 accumulated in the debt service reserve account. After the
10 debt service reserve account requirements have been met, the
11 excess revenue shall be accumulated in an extraordinary
12 mandatory redemption fund and annually used to redeem the bonds
13 prior to their stated maturity date.

14 [J.] K. When all outstanding bonds have been paid,
15 whether from the debt service reserve, the redemption fund or
16 maturity, the ordinance shall be repealed if the [county
17 ~~correctional facility gross receipts tax~~] revenue from the
18 county correctional facility gross receipts tax and county
19 correctional facility compensating tax is no longer required
20 for the purposes for which [it] they may be used pursuant to
21 the provisions of the County Correctional Facility Gross
22 Receipts Tax Act.

23 [K.] L. The repeal of an ordinance imposing a
24 county correctional facility gross receipts tax and county
25 correctional facility compensating tax shall state that the

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1 repeal shall be effective on January 1 or July 1, whichever
2 occurs first following the date the department is notified
3 personally or by mail by the county of the repeal. "

4 Section 20. Section 7-20F-5 NMSA 1978 (being Laws 1993,
5 Chapter 303, Section 5) is amended to read:

6 "7-20F-5. COLLECTION BY DEPARTMENT-- TRANSFER OF
7 PROCEEDS-- DEDUCTIONS. --

8 A. The department shall collect the county
9 correctional facility gross receipts tax in the same manner and
10 at the same time it collects the state gross receipts tax. The
11 department shall collect the county correctional facility
12 compensating tax in the same manner and at the same time it
13 collects the compensating tax.

14 B. The department shall remit to each county for
15 which it is collecting a county correctional facility gross
16 receipts tax and a county correctional facility compensating
17 tax the amount of the [~~tax~~] taxes collected, less any
18 disbursement for tax credits, refunds and the payment of
19 interest applicable to the [~~county correctional facility gross~~
20 ~~receipts tax~~] taxes. Transfer [~~of the tax~~] to a county shall
21 be made within the month following the month in which the [~~tax~~
22 ~~is~~] taxes are collected. "

23 Section 21. Section 7-20F-7 NMSA 1978 (being Laws 1993,
24 Chapter 303, Section 7) is amended to read:

25 "7-20F-7. REVENUE BONDS-- AUTHORITY TO ISSUE-- ORDINANCE

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1 AUTHORIZING ISSUE-- PLEDGE OF REVENUE. --

2 A. In addition to any other law authorizing a
3 county to issue revenue bonds, a county may issue revenue bonds
4 pursuant to the County Correctional Facility Gross Receipts Tax
5 Act for the purposes specified in that act. Revenue bonds
6 issued pursuant to the County Correctional Facility Gross
7 Receipts Tax Act may be referred to as "county correctional
8 facility gross receipts tax revenue bonds".

9 B. A county board, by majority vote, may adopt an
10 ordinance providing for issuance of revenue bonds pursuant to
11 the provisions of the County Correctional Facility Gross
12 Receipts Tax Act, the principal and interest of which shall be
13 paid from the revenue derived by the county from the county
14 correctional facility gross receipts tax, the county
15 correctional facility compensating tax and any other revenue
16 that the county may dedicate to the payment of the revenue
17 bonds.

18 C. Revenue bonds or refunding revenue bonds issued
19 as authorized pursuant to the County Correctional Facility
20 Gross Receipts Tax Act are:

- 21 (1) not general obligations of the county; and
22 (2) collectible only from the county
23 correctional facility gross receipts tax, the county
24 correctional facility compensating tax and, if authorized,
25 other properly pledged revenues, and each bond shall be payable

1 solely from the properly pledged revenues and the bondholders
2 shall not look to any other county fund for the payment of the
3 interest and principal of the bonds. "

4 Section 22. APPLICABILITY. --The provisions of this act
5 are applicable to use of tangible personal property on or after
6 July 1, 2003.

7 Section 23. EFFECTIVE DATE. --The effective date of the
8 provisions of this act is July 1, 2003.

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